

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

Electronically Filed
6/17/2020 2:36 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Carly Bonzi, Deputy

NOTICE TO DEFENDANT: SMITH CHEVROLET CO., INC. dba SMITH
(AVISO AL DEMANDADO): COLLISION CENTER, a California corporation, and DOES 1 through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF: GEORGE PADILLA, on behalf
(LO ESTÁ DEMANDANDO EL DEMANDANTE): of himself and all "aggrieved employees" pursuant to Labor Code § 2698 et seq.

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Stanislaus
800 11th Street
Modesto, California 95354

CASE NUMBER
(Número del Caso)

CV-20-002683

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq. #202754
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gaines & Gaines, APLC
27200 Agoura Road, Suite 101, Calabasas, CA 91301

818-703-8985

DATE:
(Fecha) 6/17/2020 2:36 PM

Clerk, by
(Secretario)

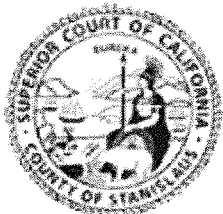
Carly Bonzi

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Carly Bonzi

(SEAL)



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

- ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alex P. Katofsky, Esq. SBN: 202754 Gaines & Gaines, APLC 27200 Agoura Road, Suite 101, Calabasas, CA 91301 TELEPHONE NO.: 818-703-8985 FAX NO.: 818-703-8984		FOR COURT USE ONLY Electronically Filed 6/17/2020 2:36 PM Superior Court of California County of Stanislaus Clerk of the Court By: Carly Bonzi, Deputy	
ATTORNEY FOR (Name): Plaintiff, George Padilla			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS STREET ADDRESS: 800 11th Street 801 10th st 4th fl MAILING ADDRESS: 800 11th Street CITY AND ZIP CODE: Modesto, 95354 BRANCH NAME: Main Courthouse			
CASE NAME: Padilla v. Smith Chevrolet Co., Inc., et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: CV-20-002683 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☐ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): One (1)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 6/17/2020

Alex P. Katofsky, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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Superior Court of California
County of Stanislaus
Clerk of the Court
By: Carly Bonzi, Deputy

\$435 PAID

8 Attorneys for Plaintiff George Padilla, on behalf of himself and all "aggrieved employees" pursuant
9 to Labor Code § 2698 *et seq.*

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF STANISLAUS**

12 GEORGE PADILLA, on behalf of himself and
13 all "aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*,

14 Plaintiff,

15 v.

16 SMITH CHEVROLET CO., INC. dba SMITH
17 COLLISION CENTER, a California
18 corporation, and DOES 1 through 10,
inclusive,

19 Defendants.
20

CASE NO: CV-20-002683

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 512, 2802 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
226.3 AND 558**

21 Plaintiff GEORGE PADILLA ("Plaintiff"), on behalf of himself and others as an "aggrieved
22 employee" under the Labor Code Private Attorneys General Act of 2004, complains of SMITH
23 CHEVROLET CO., INC. dba SMITH COLLISION CENTER, a California corporation, and/or any
24 subsidiaries or affiliated companies (hereinafter referred to as "Defendant"), as follows:

25 \\\

26 \\\

27 \\\

28 \\\

This case has been assigned to Judge Sandhu, Sonny S.
Dept. 24
Department _____ for all purposes including Trial.

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Representative Action, pursuant to Labor Code § 2698 et seq., on behalf of Plaintiff and other California employees who currently work or formerly worked for Defendant (“Aggrieved Employees”).

2. For at least one (1) year prior to the filing of this action and at least one (1) year prior to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to Labor Code § 2698 et seq., and continuing to the present (the “liability period”), Defendant has had consistent policies of:

a. Failing to pay premium wages to Plaintiff and non-exempt Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558 and IWC Wage Order 4-2001. Plaintiff and non-exempt Aggrieved Employees were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour’s pay for each missed first or second meal period. When they were able to take a meal period, they were cut short, late, or on-duty, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order 4-2001.

b. Failing to pay premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied rest periods, in violation of Labor Code §§ 226.7, 558 and IWC Wage Order No. 4-2001. Plaintiff and non-exempt Aggrieved Employees were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour’s pay for each missed rest period. When they were able to take a rest period, they were oftentimes late, cut short or on-duty, in violation of Labor Code §§ 226.7, 558 and IWC Wage Order No. 4-2001.

c. Failing to reimburse all business-related expenses to Plaintiff and other Aggrieved Employees, in violation of Labor Code § 2802. Plaintiff and Aggrieved Employees were required to use their personal cellular phones and pay for tools to perform their work tasks for Defendant but were not fully reimbursed by Defendant for these expenses. This practice violates Labor Code § 2802.

1 d. Failing to provide Plaintiff and all other non-exempt Aggrieved Employees with wage
2 statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a).
3 Plaintiff and other non-exempt Aggrieved Employees were not paid all premium wages due, as stated
4 above. As such, the wage statements provided by Defendant failed to accurately state all gross wages
5 earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor
6 Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3,
7 and all applicable hourly rates in effect during the pay period and the corresponding number of hours
8 worked at each hourly rate by the employee, in violation of Labor Code §§ 226(a)(9) and 226.3.
9 Separately, the wage statements fail to list the overtime rate, in violation of Labor Code §§ 226(a)(9)
10 and 226.3.

11 e. Failing to pay Plaintiff and certain other Aggrieved Employees all wages due at the
12 separation of their employment based on the time frames required by Labor Code §§ 201 and 202.
13 As stated above, Plaintiff and other non-exempt Aggrieved Employees were not paid all premium
14 wages due during the course of their employment and, as a result of this failure, they were not timely
15 paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202.

16 3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §
17 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

18 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
19 The Labor Code violations alleged against Defendants' herein arose in Stanislaus County, California.

20 II.

21 PARTIES

22 A. Plaintiff

23 5. Plaintiff GEORGE PADILLA was employed by Defendants from 2015 through
24 November 2019 as a non-exempt employee in Stanislaus County, California.

25 \\\n

26 \\\n

27 \\\n

1 **B. Defendant**

2 6. Defendant SMITH CHEVROLET CO, INC. dba SMITH COLLISION CENTER is a
3 California corporation. Defendant employed Plaintiff and Aggrieved Employees throughout the State
4 of California, including Stanislaus County, California.

5 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
6 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
7 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
8 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
9 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
10 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
11 designated hereinafter as DOES when such identities become known.

12 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
13 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
14 business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally
15 attributable to the other Defendants.

16 9. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
17 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
18 provisions of the California Labor Code as alleged herein.

19 **III.**

20 **CAUSES OF ACTION**

21 **FIRST CAUSE OF ACTION**

22 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
23 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
24 **CODE §§ 201, 202, 226(a), 226.7, 512, 2802 AND PURSUANT TO LABOR CODE § 2699(a)**
25 **FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

26 10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set
27 forth herein.

11. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 512, 2802; and

b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code §§ 226.3 and 558.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On April 10, 2020, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of April 10, 2020. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees he seeks to represent request relief as described below.

IV.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and

1 4. Such other and further relief as this Court may deem just and proper.

2
3 Dated: June 17, 2020

Respectfully submitted,

4 GAINES & GAINES
5 A Professional Law Corporation

6 By: 

7 DANIEL F. GAINES
8 SEPIDEH ARDESTANI
9 Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME, ADDRESS, PHONE, BAR NUMBER)	FOR COURT USE ONLY
COURT GENERATED	FILED
Attorney for:	JUN 17 2020
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS Street Address: City Towers Bldg., 801 10th St, 4th Floor, Modesto, CA 95354 Civil Clerk's Office: 801 10th Street, 4th Floor, Modesto, CA 95354	CLERK OF THE SUPERIOR COURT COUNTY OF STANISLAUS
Plaintiff/Petitioner: <u>George Padilla</u> Defendant/Respondent: <u>Smith Chevrolet</u>	BY <u>Carly Bonzi</u> DEPUTY
NOTICE OF CASE MANAGEMENT CONFERENCE	CASE NUMBER <u>CV-20-002683</u>

1. NOTICE is given that a Case Management Conference has been scheduled as follows:

Date: 10-19-2020 Time: 8:30 AM/PM

This case is assigned to Judge SONNY S. SANDHU, Dept. 24, for all purposes, including trial.

*Departments 21 & 22 are located at 801 10th Street, 6th Floor, Modesto, CA 95354

*Departments 23 & 24 are located at 801 10th Street, 4th Floor, Modesto, CA 95354

All filings shall be filed in the Clerk's Office at the City Towers, 4th Floor address.

You have 30 calendar days to file a written response with this court after the legal papers and the summons were served on you. You must also serve a copy of your written response on the plaintiff.

- You must file and serve a completed *Case Management Conference Statement* at least fifteen (15) calendar days before the case management conference.
- You must be familiar with the case and be fully prepared to participate effectively in the case management conference.
- At the case management conference the Court may make pretrial orders, including the following:
 - An order establishing a discovery schedule.
 - An order referring the case to arbitration.
 - An order dismissing fictitious defendants.
 - An order scheduling exchange of expert witness information.
 - An order setting subsequent conferences and the trial date.
 - Other orders to achieve the goals of the Trial Court Delay Reduction Act (Gov. Code, § 68600 et seq.).

Date: **JUN 17 2020**

by Carly Bonzi

Deputy Clerk

CARLY BONZI

Mandatory Form

--SANCTIONS--

If you do not file the *Case Management Statement* required by local rule, or attend the case management conference or participate effectively in the conference, the court may impose sanctions (including dismissal of the case, striking of the answer, and payment of money).

CV003

11/10

Rule 3.110 of the California Rules of Court.

Time for Service of Complaint, Cross-Complaint, and Response

- OSOS 5 1 MUL
- (a) [Application]. This rule applies to the service of pleadings in civil cases except for collection cases under Rule 3.740 (a), Unlawful detainer actions, proceedings, under the Family Code, and other proceedings for which different service requirements are prescribed by law.
- (b) [Service of complaint]. The complaint must be served on all named defendants and proofs of service on those defendants must be filed with the court within 60 days after the filing of the complaint. When the complaint is amended to add a defendant, the added defendant must be served and proof of service must be filed within 30 days after the filing of the amended complaint.
- (c) [Service of cross-complaint]. A cross-complaint against a party who has appeared in the action must be accompanied by proof of service of the cross-complaint at the time it is filed. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and proofs of service on the new parties must be filed within 30 days of the filing of the cross-complaint.
- (d) [Timing of responsive pleadings]. The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint.
- (e) [Modification of timing: application for order extending time]. The court, on its own motion or on the application of a party, may extend or otherwise modify the times provided in (b) - (d). An application for a court order extending the time to serve a pleading must be filed before the time for service has elapsed. The application must be accompanied by a declaration showing why service has not been completed, documenting the efforts that have been made to complete service, and specifying the date by which service is proposed to be completed.
- (f) [Failure to serve]. If a party fails to serve and file pleadings as required under this rule, and has not obtained an order extending time to serve its pleadings, the court may issue an Order to Show Cause why sanctions shall not be imposed.
- (g) [Request for entry of default]. If a responsive pleading is not served within the time limits specified in this rule and no extension of time has been granted, the plaintiff must file a request for entry of default within 10 days after the time for service has elapsed. The court may issue an Order to Show Cause why sanctions should not be imposed if the plaintiff fails to timely file the request for the entry of default.
- (h) [Default judgment]. When a default is entered, the party who requested the entry of default must obtain a default judgment against the defaulting party within 45 days after the default was entered, unless the court has granted an extension of time. The court may issue an Order to Show Cause why sanctions should not be imposed if that party fails to obtain entry of judgment against a defaulting party or to request an extension of time to apply for a default judgment within that time.
- (i) [Order to Show Cause]. Responsive papers to an Order to Show Cause issued under this rule must be filed and served at least 5 calendar days before the hearing.
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